



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jones et al.
Serial No.: 10/691,130
For: GRILL WITH INDEPENDENT HEATING ZONES
Filed: October 22, 2003
Examiner: Basichas, Alfred
Art Unit: 3749
Confirmation No.: 5341
Customer No.: 27623 Attorney Docket No.: 285.7618USU

**Mail Stop Amendment
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450**

Dear Sir:

AMENDMENT TRANSMITTAL

We are enclosing a Response to Office Action in response to the communication dated February 23, 2005 in the above-identified application.

The fee for any change in number of claims has been calculated as shown below.

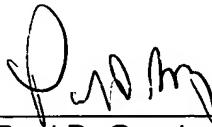
CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest Number Previously Paid	Present Extra	Rate	
Total Claims	35	Minus	35	0	x \$50.00	\$0
Independent Claims	2	Minus	3	0	x \$200.00	\$0
MULTIPLE DEPENDENT CLAIM FEE						x \$360.00 = \$0
TOTAL FEE FOR CLAIM CHANGES						\$0.00
1/2 FILING FEE FOR SMALL ENTITY						\$N/A

The total fee for this amendment, including claim changes and any extension of time is calculated to be \$ 0.00 .

X The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §§1.16 and 1.17 which may be required with this communication or during the entire pendency of the application, or credit any overpayment, to **Deposit Account No. 01-0467**. A duplicate copy of this Form is enclosed.

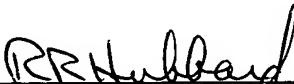
Respectfully Submitted,

Date: 5/23/05


Paul D. Greeley
Reg. No. 31,019
Attorney for Applicants
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682
(203) 327-4500
(203) 327-6401 Telefax

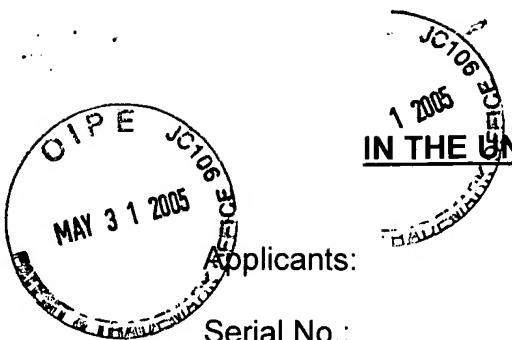
CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP AMENDMENT, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, ON MAY 23, 2005 .



Robert R. Hubbard

May 23, 2005
Date



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RESPONSE TO OFFICE ACTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This response is in reply to the first Office Action dated February 23, 2005. Claims 1-35 are pending in the application. Reconsideration of this application is respectfully requested.

It is noted with appreciation that the Office Action has indicated that claims 6-14, 21, 22, 24 and 26-35 would be allowable if rewritten in independent form to include all the limitations of the base claim and of any intervening claims.

The Office Action rejects claims 1-5, 15, 20, 23 and 25 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,341,727 to Dickson, hereafter Dickson.

This rejection is traversed. The rejection is erroneous because Dickson lacks elements recited in independent claims 1 and 15. Dickson discloses a grill in which heated oil is circulated in channels embedded in a platen. In contrast, independent claims 1 and 15 recite an entirely different grill that has a heater disposed in a heater box disposed on one side of a platen to heat the platen. Dickson lacks a heater disposed in a heater box that is disposed on one side of the platen as recited in independent claims 1 and 15.

Independent claim 1 further recites that the heater is disposed in the heater box in a manner that the platen attains a substantially uniform temperature before the temperature sensor senses a set temperature that ends a pre-heat mode or a recovery mode. Dickson, lacking a heater box, also lacks this recitation of independent claim 1.

Independent claim 15 further recites a plurality of heater boxes with separate heaters disposed in the heater boxes, wherein the heater boxes are configured to have minimal heat migration therebetween. Dickson, lacking a heater box, also lacks this recitation of independent claim 15.

For the reason set forth above, it is submitted that the rejection of claims 1-5, 15, 20, 23 and 25 under 35 U.S.C. 102(b) as anticipated by Dickson is erroneous and should be withdrawn.

The Office Action rejects claims 16, 17 and 19 under 35 U.S.C 103(a) as unpatentable over Dickson.

This rejection is traversed. The rejection is erroneous for the reason set forth in the above discussion of independent claim 15 upon which claims 16, 17 and 19 depend. Namely, Dickson lacks heater boxes as recited in independent claim 15. The Official Notice is that insulation is known between heater boxes and, therefore does not supply the deficiency of Dickson.

The Official Notice as to claims 16 and 17 is challenged. If insulation liners in heater boxes to minimize heat transfer between adjacent heater boxes is known, the Examiner needs to cite a reference that shows what is known. In the absence of such evidence, no prima facie case of obviousness has been made. Moreover, Dickson does not disclose heater boxes and the Examiner has not cited any reference that has heater boxes as recited in claims 15-17.

The Official Notice as to claim 19 is challenged. If the recited burner shape is known, the Examiner needs to cite a reference that shows what is known. In the absence of such evidence, no prima facie case of obviousness has been made. Moreover, Dickson does not disclose gas burner heaters and the Examiner has not cited any reference that has gas burner heaters as recited in claim 19.

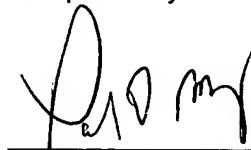
The Office Action suggestion to use the Official Notice in combination with Dickson is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

For the reasons set forth above, it is submitted that the rejection of claims 16, 17 and 19 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

The Office Action cites a patent that was not applied in the rejections of the claims. This patent has been reviewed, but is believed to be inapplicable to the claims.

It is respectfully requested for the reasons set forth above that the rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) be withdrawn, that claims 1-35 be allowed and that this application be passed to issue.

Respectfully Submitted,



Date: 5/23/05

Paul D. Greeley
Reg. No. 31,019
Attorney for Applicants
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682
(203) 327-4500